

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS**

**February 21, 2011 – 6:00 PM**

**J. NEWTON COHEN, SR. ROOM**

**J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**  
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Present: Chad Mitchell, Chairman  
Carl Ford, Vice-Chairman  
Jon Barber, Member  
Raymond Coltrain, Member  
Jim Sides, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Mitchell convened the meeting at 6:00 pm.

Commissioner Coltrain provided the Invocation and also led the Pledge of Allegiance.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Barber moved, Commissioner Ford seconded and the vote to approve the minutes of the February 7, 2011 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Ford requested to add a discussion regarding appointment of a legislative liaison for Raleigh. Commissioner Sides seconded and the motion passed unanimously.

The issue was added as agenda item #9a.

**CONSIDER DELETIONS FROM THE AGENDA**

Commissioner Sides made a motion to remove item F from the Consent Agenda. The motion was seconded by Commissioner Ford.

Commissioner Sides explained that it would be more appropriate for the request to be submitted when the application would reflect what the plans were for the property.

## **CONSIDER APPROVAL OF THE AGENDA**

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the agenda passed unanimously.

### **1. CONSIDER APPROVAL OF CONSENT AGENDA**

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Coltrain and passed unanimously.

The Consent Agenda consisted of the following:

- A. Authorize Rowan Public Library to Hold Book Sale
- B. Authorize Rowan Public Library to Apply for Summer Reading Grant
- C. Proclamation Declaring March 2011 Brain Injury Awareness Month
- D. Add Elljoy Lane to State Secondary Road System for Maintenance
- E. Approval of SNIA 01-11 Request from Peter Gibbons
- F. Approval of SNIA 02-11 Request from Sloan Lake Community Church  
(deleted from the Consent Agenda)

### **2. PUBLIC COMMENT PERIOD**

Chairman Mitchell opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Chip Short, Chair of the Trustees of Rowan Cabarrus Community College (RCCC) discussed the bond referendum that passed in the fall for the projects at Rowan Cabarrus Community College (RCCC). Mr. Short said a clear majority had voted for the bond and a tax increase to provide the needed funding for the projects. Mr. Short encouraged the Board not to disappoint the citizens and to allow the improvements.
- Dawn Evans, President of RCCC Student Government Association, discussed the needs at RCCC and asked the Board to move forward with funding for the needed projects.
- Ray Paradowski said he had chaired the RCCC Bond Referendum Committee this past fall to educate the voters about the bond referendum. Mr. Paradowski said the bond referendum's passage was the most opportune time to move forward and take advantage of the maximum value for these projects.
- Jeff Morris said the Town of Spencer had called a Special Meeting for Thursday and the topic was to ask the Board of Commissioners to delay the revaluation. Mr. Morris thanked the Board for its fiscal responsibility and dedication to protecting property rights of landowners. Mr. Morris expressed hope for a spirit of constitutional protections while the Board considered the amendments to the Farmland Preservation Ordinance.

- Jerry Shelby discussed the services provided by the Senior Services Department and the fact that services for seniors were currently provided in one location. Mr. Shelby asked the Board to remember the older citizens and the customer service that the County would be providing with any new changes.
- Larry Wright spoke on Salisbury's attempted forced annexation three years ago, how demonstrations were quickly organized and how Salisbury backed off. Mr. Wright discussed the opportunity for reform to annexation laws and he also expressed appreciation to the Board of Commissioners, including former Commissioner Tina Hall, for efforts to get the laws changed.

With no one else wishing to address the Board, Chairman Mitchell closed the Public Comment Period.

### **3. QUASI-JUDICIAL HEARING FOR SUP 01-11**

Chairman Mitchell read the Chairman's Speech (Exhibit A) and declared the public hearing for SUP 01-11 to be in session. Chairman Mitchell said the hearing would focus on an application submitted by Orica USA for their property located at 2075 High Rock Road in Gold Hill. Approval of the request would allow for an expansion of a non-conforming use with a 5,922 square foot addition to an existing vehicle maintenance and fabrication building on Tax Parcel 538-012.

The Clerk swore in those wishing to provide testimony in the case.

Senior Planner Shane Stewart presented the Staff Report (Exhibit B), as well as a power point (Exhibit C) and explained that according to Mid-Atlantic Manager Mark Ostwalt, Orica USA Inc. had operated their wholesale trade company of explosive products at 2075 High Rock Road in Gold Hill since the 1970s. Mr. Stewart said based on the current Rural Agricultural (RA) zoning, the use is not permitted by right. Mr. Stewart said a con-conforming use could not be extended, enlarged or replaced unless issued a special use permit (SUP) by the Commissioners.

Mr. Stewart said Orica was requesting a SUP for the construction of a 5,922 square foot expansion to an existing vehicle maintenance and fabrication building.

Mr. Stewart offered three (3) criteria statements used by staff in rendering a decision, as listed in the Staff Report (Exhibit B):

1. There is no increase in the total amount of area devoted to the nonconforming use.
2. There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements

or other requirements such as parking, loading and landscaping requirements.

3. There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

With no further testimony to be provided, Chairman Mitchell closed the public hearing.

Commissioner Sides moved approval of Staff's three (3) criteria statements and approval of SUP 01-11. The motion was seconded by Commissioner Barber and passed unanimously.

#### **4. PUBLIC HEARING FOR FY 2012 COMMUNITY TRANSPORTATION GRANT**

Rowan Transit System Director Gary Price provided a power point presentation as he explained that the North Carolina Public Transportation Division was accepting Community Transportation Program (CTP) applications for Fiscal Year 2012. Mr. Price said CTP was the principle source of funding for RTS operations.

Mr. Price highlighted the funding request for the FY 2012 grant application as follows:

- Administration – Requesting a total of \$240,099; a 15% County match is required (\$36,015)
- Capital Equipment – Requesting a total of \$210,400; requires a 10% local match (\$21,040)
- Facility Improvement – Requesting a total of \$17,000; requires a 10% match (\$1,700)

Mr. Price asked the Board to:

1. Conduct a public hearing on the CTP application
2. Adopt the CTP Resolution
3. Approve Federal Transit Authority Certifications/Assurances

Chairman Mitchell opened the public hearing to receive citizen input regarding the proposed FY 2012 CTP grant application. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Barber moved approval of the CTP Resolution as presented. The motion was seconded by Commissioner Coltrain and passed unanimously.

The Resolution was presented as follows:

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of

Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

WHEREAS, Rowan County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project, prepare required reports, obtain the required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE, be it resolved that the Rowan County Manager Gary Page of Rowan County is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement, with the NCDOT to provide rural public transportation services.

## **5. PUBLIC HEARING FOR HOME ACTION PLAN**

Planning & Development Director Ed Muire explained that as a member of the Cabarrus/Rowan/Iredell HOME Consortium, Rowan County anticipates receiving approximately \$160,210 in project funds for FY 201-12. The amount is a 15% reduction in funding from the previous year and the required match for participation in the program may be reduced to \$40,052 (25% of projected funds). Mr. Muire said the match is expected to be obtained from other program eligible sources. In the event the required match is not obtained from other sources, the County will be financially responsible for all or the remainder of the match amount.

Mr. Muire said Staff recommended the 2011-12 program be administered by Hobbs, Upchurch & Associates.

Mr. Muire stated that according to HUD regulations, participation in the Consortium was on a 3-year agreement and Concord had notified the County that it could participate or withdraw its participation.

In response to a query from Commissioner Coltrain, Mr. Muire discussed the funding process. Mr. Muire said funds must be used in a two-year period – one year to obligate the funds and one year to spend the funds.

Chairman Mitchell opened the public hearing to receive citizen input regarding the FY 2011-12 HOME Action Plan. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Sides moved, Commissioner Barber seconded and the vote to adopt the 2011-12 Action Plan passed unanimously.

Commissioner Sides moved to authorize the County Manager to sign necessary paperwork for submittal of the Action Plan and Consortium Contract Renewal. The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Sides moved to authorize Staff and the County Manager to negotiate a contract with Hobbs Upchurch & Associates to administer the County's HOME Program. The motion was seconded by Commissioner Barber and passed unanimously.

#### **6. PUBLIC HEARING FOR FPO-01-10**

Planning & Development Director Ed Muire recalled that in April 2010, Committee B of the Planning Board was assigned study of the amendments to the Farmland Preservation Ordinance (FPO) as proposed by the Agriculture Advisory Board (AAB). Mr. Muire said the Board of Commissioners' directive to the Planning Board was to study the ordinance in its entirety, not just amendments proposed by the AAB.

Mr. Muire said an alternate version of the ordinance was prepared by Committee B and both versions received a courtesy hearing at the August 23, 2010 Planning Board Meeting. With minor amendments, the Committee B version became the Planning Board's recommendation.

Mr. Muire said prior to a September 2010 public hearing by the Commissioners, the AAB was given an opportunity to update their version of the Farmland Preservation Ordinance to comply with statutory changes to the agricultural district program. Staff received their version in mid-December 2010 and the Planning Board conducted a courtesy hearing for both versions on January 24, 2011.

Mr. Muire said the rationale for changing the County's ordinance was to offer the enhanced voluntary Agriculture district options.

Mr. Muire said the primary difference involved who approved districts. The AAB recommends they continue to approve districts, even revoke districts, as need be and challenges and appeals of those districts would come to the Board of Commissioners. The Planning Board version recommends the AAB be just advisory, to make recommendations to the Board of Commissioners to approve, deny, or reject any district applications.

Mr. Muire said the Board of Commissioners had the option to determine which version to use.

Chairman Mitchell opened the public hearing to receive citizen input regarding FPO-01-10. The following individuals came forward to address the Board:

- Kim Starnes, Chairman of the AAB, said in 1990 Rowan County was the first county to adopt the voluntary Ag district program and since that time over 11,000 acres had been enrolled in the program. Mr. Starnes said an inquiry was made to Brandon King at the State level as to how other counties handled applications. Mr. Starnes read the email response from Mr. King in which Mr. King felt applications should be approved or disapproved by the AAB, with appeals going to the Board of Commissioners. Mr. King's email stated he had not encountered issues or problems with the AAB approving applications for enrollment in a voluntary agriculture district program and he recommended the AAB version be approved. Mr. King's email also stated that the expertise and experience of members on the AAB are the reason they are appointed by the Board of Commissioners. Mr. Starnes concluded by recommending that the Agriculture Advisory Boards' version be approved.
- Jeff Morris recommended that the Commissioners approve the Planning Board's recommendations. Mr. Morris felt the Planning Board was capable of reviewing anything that might be adverse to encroachment on the neighbors' property while the Ag Board was comprised of individuals with special interests and would be allowed to keep things as they were instead of moving forward. Mr. Morris felt the Planning Board version sought to protect property rights.
- Larry Wright, a member of the Planning Board, said the Planning Board had reviewed both plans in great detail and the Planning Board felt their version was a more friendly version and protected property rights. Mr. Wright recommended approval of Planning Board version.

With no one else wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Ford moved to accept the Planning Board version of the Farmland Preservation Ordinance. Commissioner Sides seconded the motion.

Commissioner Coltrain said the program was voluntary and was a protection of individual property rights to participate. Commissioner Coltrain said the benefit was that the program was federal and state, with the criteria to participate being established by the State. Commissioner Coltrain said the AAB's role was to ensure those in the program meet the criteria for the farmers' benefit. Commissioner Coltrain said the program had nothing to do with property rights as far as the neighbors were concerned. Commissioner Coltrain said the State ordinance indicated that the AAB must consist of at least three actual farmers

who make their livelihood from farming and if changes were made, the County could be going against the State Ordinance.

Commissioner Coltrain said the County always strived to streamline any process to make government less involved; however, he felt the Board would be increasing the amount of government bureaucracy if it approved the Planning Board's version. Commissioner Coltrain said the program was for people who asked to participate and would only be of benefit to them and at no cost to the citizens. Commissioner Coltrain concluded by stating he could not support transferring this decision to the Board of Commissioners. Commissioner Coltrain stressed that the AAB had the knowledge of the agricultural industry and the decision should lie with the AAB.

Commissioner Sides felt the County had gone the extra mile in providing a FPO if there was not legislative requirement to do so. Commissioner Sides preferred the Planning Board's version.

Commissioner Ford said there were at least one or more farmers on the Planning Board. Commissioner Ford said the AAB had worked on the text amendments for quite awhile but had not opened the proposed text up for comment or a public hearing. Commissioner Ford said the Planning Board had held public hearings on more than one occasion and he felt the Planning Board version was better.

Commissioner Barber preferred that the process go through the AAB. Commissioner Barber asked Mr. Starnes if there had been any appeals since 1990 and Mr. Starnes responded no. Commissioner Barber said the program was voluntary and the he would like to keep the process as is.

Chairman Mitchell said his only issue with the AAB version was the last sentence that was stricken by Planning Board, "An increased protection from non-farm development and other negative impacts on properly managed farms." Chairman Mitchell said farms should not be subject to development moving in beside them and those farms having to change the way they do business. Chairman Mitchell said there was concern about the impact the district may have on surrounding uses already in existence. Chairman Mitchell said the possibility existed for competing interests and the Board of Commissioners should make those decisions. Chairman Mitchell said the Planning Board version added a level of scrutiny to surrounding uses before it came to the Commissioners and he felt the Planning Board version seemed to be the best proposal.

Upon being put to a vote, the motion on the floor passed 3-2 with Commissioners Barber and Coltrain dissenting.

The approved text amendments were presented as follows:



## ARTICLE I. IN GENERAL

### Sec. 8.5-1. Purpose.

The purpose of this chapter is to encourage the voluntary preservation and protection of farmland from nonfarm development, recognizing the importance of agriculture to the economic and cultural life of the county.

The purpose of this chapter is to promote agricultural values and the general welfare of the county and more specifically, increase identity and pride in the agricultural community and its way of life; encourage the economic and financial health of agriculture, horticulture and forestry; and increase protection from non-farm development and other negative impacts on properly managed farms.

### Sec. 8.5-2. Authority.

This chapter is adopted under the authority and provisions of G.S. 106-735 through 106-743 and 153A-121 thru 153A-122.

### Sec. 8.5-3. Definitions.

The following are defined for the purposes of this chapter:

Board shall mean the county agricultural advisory board established under state law.

Chairman shall mean the chairman of the county agricultural advisory board.

District shall mean voluntary agricultural district [VAD] as established in this chapter.

Enhanced District shall mean an enhanced voluntary agricultural district [EVAD] as established by this chapter.

Farmer shall mean, for the purposes of this ordinance, an individual actively engaged in the operation, production or managing of agricultural land, forestland, or horticultural land as defined in NCGS 105-277.2

Nuisance shall mean an action that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property.

Secs. 8.5-4--8.5-20. Reserved.

## ARTICLE II. AGRICULTURAL ADVISORY BOARD

### Sec. 8.5-21. Created.

A county agricultural advisory board, to consist of five (5) members appointed by the board of commissioners, is hereby established.

### Sec. 8.5-22. Membership.

- (a) Requirements. Each board member shall be a county resident. Three (3) of the five (5) members shall be actively engaged in farming and shall be selected from the names of individuals submitted to the board of commissioners by the soil and water conservation district, the agricultural extension advisory council and the agricultural stabilization conservation service committee Cooperative Extension Advisory Council, the Farm Service Agency or by application to the Board of Commissioners.
- (b) Tenure. The members are to serve for terms of three (3) years, except that the initial board is to consist of one (1) appointee for a term of one (1) year, two (2) appointees for terms of two (2) years, and two (2) appointees for terms of three (3) years. Thereafter, all appointments are to be for a maximum of two (2) three-year terms or until a replacement has been appointed.
- (c) Vacancies. Any vacancy on the agricultural advisory board is to be filled by the board of commissioners for the remainder of the unexpired term.

- (d) Removal for cause. Agricultural advisory board members may be removed by the board of commissioners at any time for failure to attend twenty-five (25) percent or three (3) consecutive meetings within any twelve-month period (excepting excused absence) or for any other good cause related to performance of duties or when no longer actively engaged in farming during tenure for those appointed as a farming representative pursuant to Section 8.5-22(a).

Sec. 8.5-23. Funding.

~~(a) The per diem compensation of the members of the board shall be fixed by the board of commissioners.~~

~~(b)~~ (a) Funds will may be appropriated to the board to perform its duties based on approval by the Board of Commissioners.

Sec. 8.5-24. Procedure.

(a) Chairman. The board is to elect a chairman and vice-chairman each year at its first meeting following the appointment of new members or reappointment of existing members. The chairman shall preside over all regular or special meetings of the board. In the absence or disability of the chairman, the vice-chairman shall preside and shall have and exercise all the powers of the chairman so absent or disabled. Additional officers may be elected as needed.

(b) Jurisdiction. The jurisdiction and procedures of the board are to be as set out herein, except that the board may adopt supplementary rules of procedure not inconsistent with this chapter or with other provisions of law.

(c) Board year. The board will use the county fiscal year as its meeting year.

(d) Meetings. Meetings of the board, following such notice as is required by this chapter, shall be held at the call of the chairman and at such other time as the board in its rules of procedure may specify. A called meeting will be held at least every two (2) months.

(e) Majority vote. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or agency, to decide in favor of an applicant or to pass upon any other matter on which it is required to act under this chapter.

(f) Records. The board shall keep minutes of the proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(g) Administrative. Both the soil and water conservation district office and the county planning department will serve the board for record keeping, correspondence, application procedures under this chapter and whatever other services the board needs to complete its duties.

(h) Decisions. All decisions will be sent to the Board of Commissioners for final disposition.

Sec. 8.5-25. Duties.

The agricultural advisory board shall:

(1) Review and recommend approval of approve applications for qualified farmland and enrollment in either enhanced or voluntary agricultural districts and make recommendations concerning the establishment and modification of agricultural said districts. All decisions will be sent to the Board of Commissioners for final disposition.

(2) Hold public hearings pursuant to sections 8.5-61 and 8.5-62 of this chapter.

(3) Advise the board of commissioners on projects, programs or issues affecting the agricultural economy or activities within the county and that will affect agricultural districts.

(4) Perform other related tasks or duties assigned by the board of commissioners.

(5) Each district shall be assigned to a member of the board who will monitor and represent that district in all business conducted by the board. Insofar as possible, individual members will represent those districts closest to them geographically. Insofar as possible, no member will represent more than thirty (30) percent of the total number of districts in the county or thirty (30) percent of total land area.

(6) May develop, and maintain if approved, a countywide farmland protection plan as defined in NCGS 106-744(e) for presentation and consideration to the board of commissioners.

Secs. 8.5-26--8.5-40. Reserved.

### ARTICLE III. APPLICATION, CERTIFICATION OF QUALIFYING FARMLAND, ENHANCED AND VOLUNTARY AGRICULTURAL DISTRICTS

#### Sec. 8.5-41. Requirements.

(a) To secure county certification as qualifying farmland, a farm must be:

(1) Participating in the farm present-use-value taxation program established by G.S. 105-277.2 through 105-277.7 or is otherwise determined by the county to meet all the qualifications of this program set forth in G.S. 105-277.3.

~~(2) Certified by the Natural Resource Conservation Service (NRCS) or the United States Forestry Service (USFS) of the United States Department of Agriculture as being a farm on which at least two-thirds ( 2/3) of the land is composed of soils that:~~  
~~a. Are best suited for providing food, seed, fiber, forage, timber and oil seed crops;~~  
~~b. Have good soil qualities;~~  
~~c. Are favorable for all major crops common to the county where the land is located;~~  
~~d. Have a favorable growing season; and~~  
~~e. Receive the available moisture needed to produce high yields for an average of eight (8) out of ten (10) years, or be one on which at least two-thirds ( 2/3) of the land has been actively used in agricultural, horticultural or forestry operations as defined in G.S. 105-277.2(1, 2, 3) during each of the five (5) previous years, measured from the date on which the determination must be made as to whether the land in question qualifies.~~

(2) Managed, if highly erodible land exists on the farm, in accordance with the Natural Resource Conservation Service defined erosion-control practices that are addressed to such highly erodible land.

(3) The subject of a conservation agreement, as defined in G.S. 121-35, between the county and the owner of such land that prohibits nonfarm use or development of such land for a period of at least ten (10) years, except for the creation of not more than three

(3) lots that meet applicable county zoning and subdivision regulations.

(b) Voluntary Agricultural Districts

To form or be included in a voluntary agricultural district, a landowner may apply to the chairman for such inclusion at the same time he applies for qualifying farmland certification or at any time subsequent to receiving qualifying farmland certification:

(1) The purpose of voluntary agricultural districts formed by landowners shall be to encourage the economic and financial health of farming areas, to increase protection from nuisance suits, undesired nonfarm development and other negative impacts on participating farms and to increase the identity and pride in the agricultural community and its way of life.

(2) Requirements to participate:

- a. An agricultural district shall consist of all qualified participating farms within a township of Rowan County.
    - ~~1. All qualified participating farms within a township of Rowan County. or~~
    - 2. At least two (2) qualifying farms, which will create a district of not less than one hundred (100) acres and such farms lying within one (1) mile or less of one another.
  - b. An agreement to sustain, encourage and promote agriculture must be executed by the landowners in the district with the county and recorded ~~therein~~ **with the Register of Deeds.**
  - c. Must have plan on file with the Natural Resource Conservation Service or the United States Forestry Service.
- (3) Landowners may apply to participate in existing districts and are encouraged to do so.

(c) Enhanced Voluntary Agricultural Districts (EVAD)

- (1) The Enhanced Voluntary Agricultural District will provide **additional** benefits to farmers than the current Voluntary Agricultural District program.

(2) Benefits

- (a) The benefits applied to property included in a Voluntary Agricultural District pursuant to this chapter also apply to property included in an Enhanced Voluntary Agricultural District.
- (b) Property participating in the EVAD program may receive up to twenty-five percent (25%) of its gross sales from the sale of Nonfarm Products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b).
  - (c) A person who farms land that is subject to an irrevocable Conservation Agreement pursuant to, Section 8.5-41(c)(3) of this chapter is eligible to receive the higher percentage of cost-share funds for the benefit of that farmland under the Agriculture Cost Share Program pursuant to G.S. 143-215.74(b).
  - (d) State departments, institutions, or agencies that award grants to farmers are encouraged pursuant to G.S. 106-743.4(c) to give priority consideration to any person who farms land that is subject to an irrevocable Conservation Agreement per Section 8.5-41(c)(3) of this chapter.

(3) Conservation Agreement.

The Conservation Agreement entered into between the Agriculture Advisory Board and the landowner pursuant to G.S. 106-743.1(a)(2) shall be irrevocable for a period of

(10) years from the date the agreement is executed. **Enforcement or revocation contrary to the terms of the conservation agreement may be enforced by the provisions contained in Section 8.5-45(a) and (b) of this chapter.** At the end of its term, a Conservation Agreement shall automatically renew for a term of three (3) years, unless notice of termination is given in a timely manner by either party as prescribed in this ordinance. The benefits outlined in Section 8.5-41(c)(2) of this chapter shall be available to the farmland for the duration of the Conservation Agreement. **The applicant will be provided full disclosure of the details and requirements of the program in writing thirty (30) days prior to consideration of the EVAD application by the Agricultural Advisory Board.**

Sec. 8.5-42. Procedure.

- (a) To secure county certification as a qualifying farm and, if so desired by the applicant, as an agricultural district, a landowner for such certification will apply to the chairman of the agricultural advisory board. Application forms may be obtained from the chairman.
- (b) Upon receipt of an application, the chairman will forward copies immediately to:

- (1) The local tax assessor's office.
- (2) The local office of the Natural Resource Conservation Service of the United States Department of Agriculture for their evaluation pursuant to section 8.5-41. Such offices shall evaluate, complete and return their copies to the chairman within thirty (30) days of receipt.

(c) Within sixty (60) days of receipt back from the local tax assessor and NRCS offices, the **Advisory Board** will meet and render a **recommendation to the Board of Commissioners** decision regarding the application(s). The **Board of Commissioners** chairman will notify the applicant by mail if the real property for which certification is sought satisfies the criteria established in article II and if the land has been certified as qualifying farmland, and also as an enhanced or voluntary agricultural district, if application was so sought.

(d) If an application is denied by the **Board of Commissioners** ~~Advisory Board~~, the landowner may, within ten (10) ~~fifteen (15)~~ days of notification of disapproval of the application, request in writing that the **Board of Commissioners** ~~Advisory Board~~ reconsider its decision. The request for reconsideration shall state the reason(s) therefore. Upon either an initial denial, if no request for reconsideration was made, or denial after reconsideration, the landowner shall have thirty (30) days from the date of notification to appeal the decision to the **Board of Commissioners**. ~~Such appeal shall be presented in writing. The decision of the Board of Commissioners is final.~~ **through the appropriate legal process.**

Sec. 8.5-43. Identification on county records.

Enhanced and Voluntary agricultural districts will be marked on county maps displayed for public view in the following county offices:

- (1) Register of deeds.
- (2) Code enforcement.
- (3) Tax supervisor.
- (4) Soil and water conservation district.
- (5) Agricultural extension.
- (6) County planning.
- (7) Any other office deemed necessary by the board.
- (8) County's GIS website.

Sec. 8.5-44. Public information program.

The county may take such action as it deems appropriate through the agricultural advisory board or other body or individual to encourage the formation of enhanced or voluntary agricultural districts and to further their purposes and objectives, including at a minimum a public information program to reasonably inform landowners of the farmland preservation program.

Sec. 8.5-45 Revocation of conservation agreement; procedure

~~By written notice to the board, a landowner of qualifying farmland may revoke the conservation agreement formulated pursuant to sections 8.5-41 through 8.5-44. Such revocation shall result in loss of qualifying farm status and, consequently, loss of eligibility to participate in voluntary agricultural district and benefits thereof.~~

Revocation by the landowner or the agricultural advisory board shall follow the procedures as prescribed below for the respective district type:

(a) Voluntary Agricultural District (VAD).

By providing 30 days advance written notice to the Advisory Board, a landowner of qualifying farmland within a VAD may request revocation of the Conservation Agreement or the Advisory Board may recommend revocation of the same Conservation Agreement based on noncompliance by the landowner, subject to the same provisions as contained in Section 8.5-42(d) of this chapter. After review and decision by the **Board of Commissioners** such revocation shall result in loss of qualifying farm status and loss of eligibility to participate in a VAD. If the **Board of Commissioners** shall revoke

this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Section 8.5-42(d) of this chapter. Transfers of land in a VAD due to death of the landowner, sale or gift shall not revoke the Conservation Agreement unless the land no longer qualifies for the present-use-value taxation program or, in the event that there are water or sewer assessments held in abeyance, the new owner(s) fails to agree in writing to accept liability for those assessments in the event that the land is withdrawn either voluntarily or involuntarily from the VAD. Enforcement of the terms of a Conservation Agreement for land enrolled in a VAD shall be limited to revocation of the Conservation Agreement and the benefits derived therefrom. A notice of revocation shall be recorded in the county land record system sufficient to provide notice that the land has been withdrawn from the Voluntary Agricultural District program.

(b) Enhanced Voluntary Agricultural District (EVAD).

Conservation Agreements for land within EVAD are irrevocable for a period of 10 years. Enforcement of the terms of the Conservation Agreement may be through an action for injunctive relief and/or damages in any court of competent jurisdiction. The Board of Commissioners may also terminate any benefits to the owner under this program either permanently or during the period of violation, as appropriate. If the Board of Commissioners shall revoke this Conservation Agreement for cause, the landowner shall have the appeal rights set forth in Section 8.5-42(d) of this chapter. The right to terminate program benefits is in addition to any legal rights that the County may have under either this chapter or the terms of the applicable Conservation Agreement. The County may seek costs of the action including reasonable attorney fees if such a provision is incorporated into the Conservation Agreement. A notice of revocation shall be recorded in the county land record system sufficient to provide notice that the land has been withdrawn from the Enhanced Voluntary Agricultural District program.

Secs. 8.5-46--8.5-60. Reserved

#### ARTICLE IV. PUBLIC HEARINGS

Sec. 8.5-61. Purpose.

Pursuant to G.S. 106-740, which provides that no state or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within an enhanced or voluntary agricultural district until such agency or unit has requested the local agricultural advisory board to hold a public hearing on the proposed condemnation, this article provides for such hearings.

Sec. 8.5-62. Procedure.

Upon receiving a request, the agricultural advisory board shall publish notice describing the proposed action in the appropriate newspapers of the area within two (2) days of the request and will, in the same notice, notify the public of a public hearing on the proposed condemnation, to be held within fourteen (14) days of receipt of the request.

(b) The board will meet to review:

- (1) If the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved.
- (2) Alternatives to the proposed action that are less impactive and disruptive to the agricultural activities and farmland base of the voluntary agricultural district within which the proposed action is to take place.

(c) The board will consult with the county agricultural extension agent, U.S.D.A. Natural Resource Conservation Service personnel and planner, and may consult with any other individuals, agencies or organizations, public or private, necessary to the board's review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.

(d) Within ten (10) days after the public hearings, the board will make a report containing its findings and recommendations regarding the proposed action. The report will be made available to the public for comment prior to ~~its being conveyed to the decision-making body of the agency proposing acquisition~~ a final public hearing / decision by the Board of Commissioners. Following the Commission's decision, the final report will be conveyed to the decision-making body of the agency proposing acquisition and or condemnation.

(e) Pursuant to G.S. 106-740, the county will not permit any formal initiation of condemnation action by local agencies while the proposed condemnation is properly before the advisory board within these time limitations.  
Secs. 8.5-63--8.5-80. Reserved.

## ARTICLE V. WAIVER OF WATER AND SEWER ASSESSMENTS

### Sec. 8.5-81. Purpose.

The purpose of this section is to help mitigate the financial impacts on farmers of some local and state capital investments unused by such farmers.

### Sec. 8.5-82. Procedure.

(a) Landowner(s) belonging to enhanced or voluntary agricultural districts shall not be assessed for or required to connect to water and/or sewer systems.

(b) Water and sewer assessments will be held in abeyance, without interest, for farms, whether inside or outside of a voluntary agricultural district, until improvements on such property are connected to the water or sewer system for which the assessment was made.

(c) When the period of abeyance ends, the assessment is payable in accordance with the terms set out in the assessment resolution.

(d) Statutes of limitation are suspended during the time that any assessment is held in abeyance without interest.

(e) Assessment procedures followed under G.S. Article 9 of Chapter 153A shall conform to the terms of this chapter with respect to qualifying farms that entered into conservation agreements while such chapter was in effect.

(f) Nothing in this section is intended to diminish the authority of the county to hold assessments in abeyance under G.S. 153A-201.

(g) Water and sewer assessments will be conducted through Salisbury Rowan Utilities and the Rowan County Tax Assessor's office.

(h) To the extent that this section conflicts with the terms of federal, state, or other grants under which county utility systems are constructed this section shall not apply. This section shall not apply to utilities that are not owned by the County unless the County has entered into an agreement with the entity(ies) owning the utilities and that agreement provides that this Ordinance shall apply.

Secs. 8.5-83--8.5-100. Reserved.

## ARTICLE VI. STATE AGENCY NOTIFICATION

### Sec. 8.5-101. Purpose.

The Advisory board shall consult as much as possible with the state department of agriculture, the state division of soil and water and any other entity the board deems necessary to the proper conduct of its business.

### Sec. 8.5-102. Procedure.

A record of the ordinance from which this chapter derives shall be recorded with the state commissioner of agriculture's office after adoption. At least once a year the county shall submit a written report to the commissioner of agriculture including the status, progress and activities of the county's farmland preservation program, including voluntary agricultural districting information regarding:

- (1) Number of landowners enrolled.
- (2) Number of acres applied.
- (3) Number of acres certified.
- (4) Number of acres denied.
- (5) Date certified.
- (6) Copies of any amendments to this chapter.

~~Sec. 8.5-103. Reports.~~

~~Copies of the reports cited in section 8.5-62 will be sent to:~~

- ~~(1) The state department of transportation.~~
- ~~(2) The secretary of the state department of commerce.~~
- ~~(3) The state hazardous waste commission.~~
- ~~(4) The state low-level radioactive waste commission.~~
- ~~(5) Any public benefit corporations operating within the county.~~
- ~~(6) Any other entities the board deems appropriate.~~

Article VII. Legal Provisions.

Section 8.5-105. Severability

If any article, section, subsection, clause, phrase, or portion of this Ordinance is for any reason found invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**7. CONSIDER OTPTIONS FOR SENIOR SERVICES REORGANIZATION**

County Manager Gary Page spoke regarding the Board of Commissioners' work session discussion and the options to reorganize the Senior Services Program. Mr. Page said the major focus was to keep the senior services in one location, and to merge the existing Senior Services Department (SSD) with Rufty-Holmes Senior Center (RHSC). Mr. Page said the merger would hold RHSC harmless on revenues and expenses; the County would continue to allocate \$17,000 per year for planning match money; the appropriation to Rufty-Holmes would remain \$60,000 per year and the County would continue the 15% local match. Since a Memorandum of Understanding (MOU) would not be in place as of March 1, 2011, the County would have to recognize Centralina Council of Governments (CCOG) as the Area Agency on Aging for one year or until the MOU was executed (by July 1, 2011). Mr. Page said the County could switch to RHSC as the lead agency to apply for HCCBG monies in 2012.

Mr. Page said there were two (2) issues to resolve. One issue was the four (4) current County employees that would cease to be County employees on July 1,



2011 and the other issue was the request for the four (4) current RHSC employees to be covered under the County's Health Insurance Program.

Commissioner Sides said there were twelve (12) items discussed last week as part of the MOU and his only issue was converting other employees to the County's insurance. Commissioner Sides highlighted the benefits for the merger and said the best option was to move the services under RHSC; the other option was to place the programs under the Department of Social Services (DSS).

Commissioner Sides moved to place the Senior Services program under RHSC with the exception that the employees would not fall under County insurance. The motion was seconded by Commissioner Ford.

Commissioner Barber said if there were not 3 votes to keep Senior Services as its own department, the best option would be to merge with RHSC. Commissioner Barber said it would not cost much to move the employees under the County's health insurance plan.

Commissioner Coltrain said he would also like to have seen the department stay as it was originally. Commissioner Coltrain felt the four (4) people from RHSC should be allowed to come under the County's insurance since they would be carrying out county programs. Commissioner Coltrain said the equipment should be transferred and not leased to RHSC.

Chairman Mitchell made the recommendation to solidify the relationship with RHSC and to begin the process of transitioning Senior Services to RHSC. Chairman Mitchell said if the insurance was an issue, it could be considered during the budget process. Chairman Mitchell said the County could work on the transfer and discuss issues as they arose.

Commissioner Sides accepted the amendment to transfer the equipment to Ruffy-Holmes.

Chairman Mitchell explained that the motion as it stood would strike the health insurance and transfer the equipment to RHSC.

Commissioner Barber asked if the motion was just to start the process and move everything to RHSC except for the equipment transfer. Commissioner Sides said the employees would not come under the County insurance and the County would absorb the cost of the insurance of the four (4) employees that transferred.

Commissioner Barber reiterated that during the budget process the insurance issue would be decided as to what was effective July 1, 2011. Commissioner Barber said the employees needed to be clear that the issue on insurance had not gone away.

Upon being put to a vote, the motion on the floor passed unanimously.

Chairman Mitchell called for a recess at 7:15 pm.

Chairman Mitchell reconvened the meeting at 7:20 pm.

**8. CONSIDER APPROVAL OF DECLARATION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES FOR ROWAN CABARRUS COMMUNITY COLLEGE BOND**

County Manager Gary Page reviewed the resolution for reimbursement and explained that any out of pocket expenses Rowan Cabarrus Community College (RCCC) incurred for engineering in the next three to four months could be reimbursed while the County was securing the financing.

Mr. Page reported on the options for borrowing the money for the projects. The first option was to borrow the \$12 million over a fifteen year period and raise taxes by 1¼ cents. Mr. Page said during the Commissioners' work session, board members had indicated that the projects should be broken up into phases. Mr. Page said the second option would be to spread the projects out over two to three years in increments of \$3 million, \$6.7 million, \$2.3 million.

Mr. Page said before approving the resolution to reimburse, it needed to be decided how much would be spent and for how long. This will be the official position of the Board.

At Commissioner Sides' request, County Manager Page discussed the hybrid option of taking the \$12 million for RCCC and rolling it into the ¼ cent sales tax.

Commissioner Sides said he would love to see all three (3) projects completed at Rowan Cabarrus Community College; however, he would like to see the major improvements authorized first. Commissioner Sides said the Board could authorize the new building one year later and the fire training facility the next year. Commissioner Sides said it would allow the Board to keep the tax rate down by doing the projects in phases.

Commissioner Coltrain said the issuance costs for borrowing the money would be higher if the Board split up the financing. Commissioner Coltrain felt the interest rate should be locked in at this time and also that construction costs would be lower now as opposed to delaying the projects for two (2) or three (3) years. Commissioner Coltrain favored approving the bond as voted upon by the citizens.

Commissioner Barber said he planned to listen to the voters since the bond referendum had passed.

Commissioner Barber moved approval of the declaration of official intent to reimburse expenditures for Rowan Cabarrus Community College at \$12 million. Commissioner Coltrain seconded the motion.

Commissioner Ford said he might change his mind if the decision could wait two weeks.

Commissioner Sides said if the borrowing was spread out, the County would pay interest only on what was borrowed at the time.

Chairman Mitchell said he wanted to see the projects at RCCC built as they were voted approved but he did not want to see the County borrow the full \$12 million and only use 25% in the first year. Chairman Mitchell recommended moving ahead while not borrowing all the funds up front in this fiscal year. Chairman Mitchell asked the County Manager to inquire as to RCCC's plans for spending the money and he said if the Board had RCCC's timeline, the County would know when to borrow the money. Chairman Mitchell said the projects should be completed as approved by the voters; however, he stressed there was no need for the money to sit in the bank with the County paying interest and raising taxes to make those payments.

Chairman Mitchell asked for a two (2) week delay to get the information.

Commissioner Barber rescinded his motion.

Commissioner Coltrain asked when the Board could expect the information and Ray Paradowski said that RCCC Staff would do their best to talk to engineers and architects within the two (2) weeks.

Chairman Mitchell reiterated the need to get the timeline from the college and the estimate on when the monies would be needed so the County will not have to borrow money until the college was ready for it.

Chairman Mitchell said he would rather have a delay of two weeks than have the motion withdrawn.

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to delay a decision for 2 weeks passed unanimously.

#### **9. CONSIDER LETTER OF SUPPORT FOR EAST ROWAN DIAMOND SPORTS (FORMERLY EAST ROWAN LITTLE LEAGUE)**

Chairman Mitchell referred to the request in the agenda packets from the president of East Rowan Diamond Sports. The request was for a letter of support for the National Guard to assist with building a sports complex in the eastern portion of Rowan County.

Commissioner Coltrain moved, Commissioner Sides seconded and the vote to submit a letter of support for the project passed unanimously.

#### **ADDITION TO THE AGENDA**

##### **9a. Discussion Regarding Appointment of a Legislative Liaison to Raleigh**

Commissioner Ford felt it important that Rowan County have someone travel to Raleigh to communicate with legislators and the North Carolina Association of County Commissioners. Commissioner Ford said most cities/counties have someone going to Raleigh several times each year. Commissioner Ford said he did not feel the individual needed to be in Raleigh every day but rather at least 2 to 3 times per month.

Commissioner Sides agreed that the Board should have representation on common issues and items the Board did not have to vote on.

Commissioner Sides nominated Commissioner Ford as the legislative liaison and said others would share the responsibility. The nomination was seconded by Chairman Mitchell.

Commissioner Barber stated the appointment went against what the Board said in December about not appointing liaisons to boards where the Commissioners did not have voting privileges.

Chairman Mitchell said the County's interest needed to be represented in Raleigh.

Upon being put to a vote, the motion on the floor passed unanimously.

#### **10. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

Finance Director Leslie Heidrick presented the following budget amendments for the Board's consideration:

- Elections – Grant monies received for salaries at one-stop sites - \$11,012
- Finance – Budget revenue and expenditures for Explorer donations - \$100
- Finance – Budget Homeland Security Grant for an automatic transfer switch at South Rowan YMCA and transfer switch at the Salisbury Civic Center - \$39,925
- Health – Increase Smart Start: Grant funding for Maternal Health Program to pay for salaries of existing nursing and interpreter staff - \$13,200
- Finance – Budget One North Carolina fund grant revenues and expenditures for Boral Composites - \$50,000
- Finance – Appropriate fund balance and expenditures for a well at Sloan Park - \$10,650
- Finance – Revise fire department budget to allow for increase collections - \$243,100

Commissioner Sides moved approval of the budget amendments as presented. The motion was seconded by Commissioner Barber and passed unanimously.

#### **11. CLOSED SESSION**

Commissioner Ford moved at 7:55 pm for the Board to enter Closed Session pursuant to North Carolina General Statute §143-318.11(a)(5) to discuss a real property purchase. The motion was seconded by Commissioner Sides and passed unanimously.

The Board returned to Open Session at 8:15 pm.

Commissioner Sides moved for the County to offer to sell its 75% ownership of Fieldcrest Cannon Stadium to the City of Kannapolis for \$3 million, for the County to be paid \$60,000 per year for 50 years. The money in the consortium fund would remain for their use. One claw back provision would be that if the property is sold prior to payoff, one-half of the selling price above \$3,750,000 would be paid to the seller. In case of early payoff any sale within three years would be covered by the same rule. As part of that motion, a second motion would be that the County purchase from the City of Kannapolis their 25% ownership in Kannapolis Stadium for \$750,000 to be paid over 50 years at the rate of \$15,000 per year with the same claw back provision. The motion was seconded by Commissioner Barber and passed unanimously.

#### **12. ADJOURNMENT**

There being no further business to come before the Board, Chairman Mitchell adjourned the meeting at 8:18 pm.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC  
Clerk to the Board/Assistant to the County Manager